

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

CR-500-2013

Decided on: 15.05.2015

State of Punjab and others

.....Petitioners

versus

Sandeep Mahajan

.....Respondent

CORAM HON'BLE MR. JUSTICE K.KANNAN

Present: Ms. Vandana Malhotra, Addl. A.G.Punjab,
for the petitioners.
Mr. Anil Chawla, Advocate, for the respondent.

K.KANNAN, J (ORAL)

The revision petition is against the order rejecting an application for amendment of the written statement filed by the State.

The suit was for injunction in relation to a shop claimed by the plaintiff as being held by him owner of a land taken on lease from the Wakf Board. The original written statement was that the suit was not maintainable for non impleadment of the sole owner being the Wakf Board. The amendment was sought to contend that it is now learnt that the property did not belong to the Wakf Board but it is a property belonging to the State Police Department itself. Infact, the defendant was therefore, trying to withdraw an admission which has already been made and bring a new statement that the property only belonged to the Police Department.

As a principle of law, the Court shall always be liberal in allowing amendment to a written statement then an amendment to a plaint. It is also a known precept that a defendant has certain privileges which the plaintiff does not enjoy, one such being right of a defendant to make even inconsistent pleadings. If the defendant makes an admission in the statement, he can also take in the same written statement plea which can go as far as to deny the source of ownership.

In this case, I find that while the preliminary

objections state that the suit is bad for non joinder of necessary party namely Wakf Board as the sole owner in para 2 of the written statement, the State has attempted to say elsewhere in the written statement that as per the records maintained by the Punjab Police Rules, an area of 1533 Sq.yards is shown to be government property and the records of the Municipal Corporation also sets out the same extent as 1533 Sq.yards including the shop already in possession by the plaintiff as the property of the government. It is stated in para 3 that the possession of the plaintiff is illegal as per the records of the Punjab Police Department, which I would understand is a manner of stating that the property is owned by the Punjab Police Department. If there are inconsistent pleas already in the written statement that ought to take care of the interest of the State. If the State wants to rely on any register maintained by the police as regards for assertion of right in respect of the said property, the State will be competent to do so and there is no need for bringing any amendment to the written statement. By denying the amendment as the lower court did, I do not think any serious prejudice would be said to be caused to the State.

I will not find any occasion for interference under Article 227 of the Constitution of India when there is no special prejudice shown to have been caused.

Petition is dismissed.

(K.KANNAN)
JUDGE

15.05.2015
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